

REMARKS/ARGUMENTS

This is in response to the official action dated May 7, 2007. Reconsideration is respectfully requested.

Claim objections

The Examiner objected to claim 7 as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants have amended claim 7 to correct the objection.

Claim rejections under 35 USC § 102

The Examiner rejected Claims 1-4 as being anticipated by Nightingale (GB 2,042,340).

A claim is properly rejected as anticipated by a prior art reference, only if **every element of the claim is found in the reference.**

The Nightingale reference discloses a dispensing device for emitting vaporizable substances. It includes a reservoir which holds the vaporizable substance and a capillary passage connecting the reservoir with the atmosphere. The capillary passage is dimensioned for a specific emission rate controlling device for the vaporizable substance and accordingly has a cross-sectional area of less than half that of the reservoir. Capillary passage in Nightingale are passages of small cross section and may be circular or rectangular such as those that are obtained by deforming a circular tube, or inserting a cylinder into a tube, as long as it provides comparable constraints on the diffusion of vapors. The absolute dimensions of the controlling capillary depend on the desired rate of vapor emission and on the physical properties of the vaporizable substance. In the Nightingale device, the capillary passage will be fed with an effectively constant concentration of vapor from the reservoir and, since the capillary passage is constant in dimensions, the rate of emission will be similarly constant.

Applicants submit that, in contrast to Applicants invention nowhere does Nightingale describe the use of "**channels to permit ingress of carrier gas into the reservoir and egress of**

fragrance-containing carrier gas from the reservoir". The emission control zones in Nightingale are just that, zones that control emission of the vapor of the liquid 3, 12 or 17. There is no indication whatsoever in Nightingale that a carrier gas is used. Moreover, there is also no indication that a carrier gas could be used. This is not surprising, because Figures III and IV of Nightingale shows a waisted portion 11 containing **a liquid 12** (all liquids are indicated by hatched lines, see e.g., item 3 of Fig. I and item 17 in IV), which means that gas cannot be passed through these devices in the way as is claimed in Applicants' present invention, in which the carrier gas is controlled (i.e. interrupted or flowing). Accordingly, Nightingale does not have disclose claimed channels to permit ingress of carrier gas into the reservoir and egress of fragrance-containing carrier gas from the reservoir, the channels being defined by capillaries having internal diameter and length dimensions sufficient to act as closure means to substantially prevent leakage of fragrance from the reservoir into a head space external of the cartridge when carrier gas flow is interrupted. In Nightingale, the fragrance must be emitted from the capillary. The rate of emission is certainly controlled, but there is emission. On the other hand, in the present invention, there is little or no emission without the use of carrier gas. The inventions are therefore not anticipated by the Nightingale reference.

Claim rejections under 35 USC § 103

The Examiner rejected claims 5-9 as being obvious over Chiao et al. (US 20020114744) in view of Nightingale. The Chiao reference discloses a scent storage and release systems used to create olfactory sensations such as in aroma therapy. The cartridges of Chiao have capillary tubing (010) conveying the scent from a reservoirs (016) to the scent-releasing openings (011) (see Fig.5, and p.8 [0090]). It is disclosed in [0090] that the scent card 001 releases scent through scent release openings 011 as depicted in FIG. 5. In the variants depicted in FIGS. 5-9, multiple, different scents are released through each of the scent release openings 011. The scent release openings 011 are connected to scent reservoirs 016 for each scent by capillary tubing 010. The scent card 001 operates under the control of a scent release system (not shown) that can be a stand-alone unit or part of an integrated multimedia playback and scent release system. The scent release system controls the scent card through an electrical interface 032, as shown in FIG. 7. The electrical interface can be variously disposed about the periphery of the scent card as shown in

FIG. 7. Scent is released from the scent card using a scent release unit 004 as shown in FIG. 6. The scent release unit comprises at least a capillary tube 010 which conveys scent from the scent reservoir 16 to the scent release opening 011. In variants of the second preferred embodiment, the scent release unit 004 can operate on an evaporation principle, electrostatic principle, or both. The capillary 010 tube is shown immediately beneath the scent release opening 011. Scent stored in the scent reservoir is conveyed by the capillary tube into absorbent material 014.

In contrast the Applicants' present claimed invention, there are no "channels to permit ingress of carrier gas into the reservoir and egress of fragrance-containing carrier gas from the reservoir". There is a capillary in, indicating a potential ingress, but there is no capillary out, no egress. As already shown in the discussion above concerning the Nightingale reference, which also has no capillary out to allow carrier gas to carry the fragrance out or stop the fragrance when interrupted. The combination of two references that lack both the same aspect, would still not result in what is claimed in claims 5-9. In addition, the Chiao cartridges are large, complex devices, clearly tailored to perform their particular specialized function. The Nightingale devices are simple devices tailored perfectly for their functions. Conceptually, they are so far apart that it would require a experimentation to combine both references. However, even if a person skilled in the art would attempt to do so, it would not result in Applicants' invention.

Accordingly, Applicants submit that the claims 5-9 are not obvious over the combination of Chaio in view of Nightingale.

CONDITIONAL PETITION FOR EXTENSION OF TIME


If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No.

14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,
NORRIS McLAUGHLIN & MARCUS, P.A.

By 
Christa Hildebrand
Reg. No. 34,953
875 Third Avenue - 18th Floor
New York, New York 10022
Phone: (212) 808-0700
Fax: (212) 808-0844
Facsimile: (212)808-0844